

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

JOSEPH MATTHEW BORDERS,

Petitioner,

vs.

Criminal Action 2:07-CR-86
Civil Action 2:09-CV-616
Judge Marbley
Magistrate Judge King

UNITED STATES OF AMERICA,

Respondent.

ORDER

On September 17, 2012, and following an evidentiary hearing, the United States Magistrate Judge recommended that petitioner's amended petition be granted on his claim of ineffective assistance of counsel due to his attorney's failure to file a timely appeal. *Report and Recommendation*, Doc. No. 147. The Magistrate Judge also recommended that the judgment of conviction, Doc. No. 56, be vacated, that a new judgment be entered and that a notice of appeal be filed on petitioner's behalf. *Id.* Although the parties were advised of their right to object to that recommendation and of the consequences of their failure to do so, there has nevertheless been no objection.

The *Report and Recommendation*, Doc. No. 147, is **ADOPTED AND AFFIRMED**. Petitioner's amended petition is **GRANTED** on the claim of ineffective assistance of counsel due to his attorney's failure to file a timely appeal. The judgment of conviction, Doc. No. 56, is **VACATED**. The Clerk is **DIRECTED** to enter a new judgment so that petitioner's current attorney may file a notice of appeal on petitioner's behalf.

s/Algenon L. Marbley
Algenon L. Marbley
United States District Judge